

## Social Security Administration

## §416.1530

(iv) The amount of time the representative spent on the case;

(v) The results the representative achieved;

(vi) The level of review to which the claim was taken and the level of the review at which the representative became your representative; and

(vii) The amount of fee the representative requests for his or her services, including any amount authorized or requested before, but not including the amount of any expenses he or she incurred.

(2) Although we consider the amount of benefits, if any, that are payable, we do not base the amount of fee we authorize on the amount of the benefit alone, but on a consideration of all the factors listed in this section. The benefits payable in any claim are determined by specific provisions of law and are unrelated to the efforts of the representative. We may authorize a fee even if no benefits are payable.

### §416.1528 Proceedings before a State or Federal court.

(a) *Representation of a party in court proceedings.* We shall not consider any service the representative gave you in any proceeding before a State or Federal court to be services as a representative in dealings with us. However, if the representative also has given service to you in the same connection in any dealings with us, he or she must specify what, if any, portion of the fee he or she wants to charge is for services performed in dealings with us. If the representative charges any fee for those services, he or she must file the request and furnish all of the information required by §416.1525.

(b) *Attorney fee allowed by a Federal court.* If a Federal court in any proceeding under title XVI of the Act makes a judgment in favor of the claimant who was represented before the court by an attorney, and the court, under section 1631(d)(2) of the Act, allows to the attorney as part of its judgment a fee not in excess of 25 percent of the total of past-due benefits to which the claimant is eligible by reason of the judgment, we may pay the attorney the amount of the fee out of, but not in addition to, the amount of the past-due benefits payable. We

will not pay directly any other fee your representative may request.

[72 FR 16725, Apr. 5, 2007]

### §416.1530 Payment of fees.

(a) *Fees allowed by a Federal court.* Commencing February 28, 2005, we will pay a representative who is an attorney, out of your past-due benefits, as defined in §416.1503, the amount of the fee allowed by a Federal court in a proceeding under title XVI of the Act. The payment we make to the attorney is subject to the limitations described in paragraph (b)(1) of this section.

(b) *Fees we may authorize—*(1) Attorneys and non-attorneys eligible to participate in the direct payment demonstration project. Except as provided in paragraphs (c) and (e) of this section, commencing February 28, 2005, if we make a determination or decision in your favor and you were represented by an attorney or a non-attorney who is eligible to participate in the direct payment demonstration project, as defined in §416.1517, and as a result of the determination or decision you have past-due benefits, as defined in §416.1503, we will pay the representative out of the past-due benefits, the smallest of the amounts in paragraphs (b)(1)(i) through (iii) of this section, less the amount of the assessment described in paragraph (d) of this section.

(i) Twenty-five percent of the total of the past-due benefits, as determined before any payment to a State (or political subdivision) to reimburse the State (or political subdivision) for interim assistance furnished you, as described in §416.525 of this part, and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127 of the Act;

(ii) The amount of past-due benefits remaining after we pay to a State (or political subdivision) an amount sufficient to reimburse the State (or political subdivision) for interim assistance furnished you, as described in §416.525 of this part, and after any applicable reductions under section 1127 of the Act; or

(iii) The amount of the fee that we set.

(2) *Non-attorneys not eligible to participate in the direct payment demonstration project.* If the representative is a non-